

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO INC. SECURITIES LITIGATION

Case No. 07-MD-1902 (JSR)

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This Document Relates to:

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KENNETH M. KRYSS, et al.,

Plaintiffs,

-against-

CHRISTOPHER SUGRUE, et al.,

Defendants.

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KENNETH M. KRYSS, et al.,

Plaintiffs,

-against-

DEUTSCHE BANK SECURITIES INC., et al.,

Defendants.

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**DECLARATION OF MASON C. SIMPSON IN SUPPORT OF
PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO DISMISS OR FOR
OTHER SANCTIONS FOR SPOILIATION OF EVIDENCE**

Mason C. Simpson declares as follows:

1. I am a member of the law firm Brown Rudnick LLP, co-counsel, with Beus Gilbert PLLC, for plaintiffs Kenneth M. Kryss, *et al.* ("Plaintiffs") in the above-captioned action. I am admitted to practice before this Court. I respectfully submit this declaration in support of Plaintiffs' Response to Defendants' Motion to Dismiss or for Other Sanctions for Spoliation of Evidence.

2. Attached hereto as Exhibit A are true and correct copies of excerpts to the depositions of H. Christopher Rose on June 1, 2012 and June 21, 2012.

3. Attached hereto as Exhibit B is a true and correct copy of an email, dated December 6, 2005, from Paul Aaronson to Christopher Sugrue, Mark Kavanagh, Brian Owens and Randal Yanker attaching a December 5, 2005 Memorandum to the Board of Directors, PlusFunds Group, Inc., marked as Ex. 6285 at March 27, 2012 deposition of Paul Aaronson.

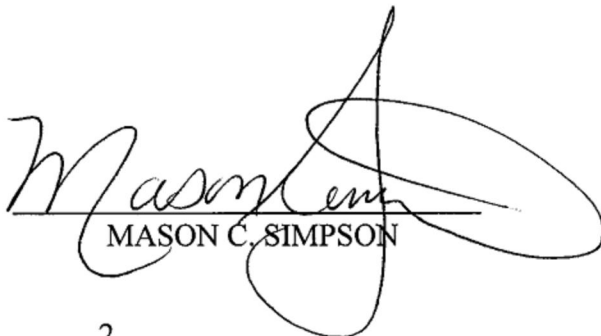
4. Attached hereto as Exhibit C is a true and correct copy of handwritten notes taken by Brian Owens for the PlusFunds Management Meeting, marked as Ex. 6356 at the April 19, 2012 Deposition of Brian Owens.

5. Attached hereto as Exhibit D are true and correct copies of excerpts to the deposition of Paul Aaronson on March 27, 2012.

6. Attached hereto as Exhibit E are true and correct copies of excerpts to the deposition of Mark Kavanagh on May 17, 2012.

7. Attached hereto as Exhibit F is a true and correct copy of an email, dated October 25, 2005, from Chris Rose to Paul Aaronson re: Credit Risk and Management Controls, marked as Ex. 6271 at the March 27, 2012 deposition of Paul Aaronson.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on September 14, 2012


MASON C. SIMPSON